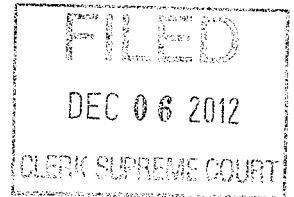


In the Supreme Court of Iowa



Request for Public Comment)	
Regarding Proposed Emeritus)	
Pro Bono Practice Rule)	Order

The executive director of Iowa Legal Aid and the director of the office of professional regulation have filed with the court a proposal to amend chapter 31 of the Iowa Court Rules to include an emeritus pro bono practice rule. According to the American Bar Association, at least thirty-three other jurisdictions have adopted rules waiving some part of the normal licensing requirement for lawyers who agree to limit their practice to pro bono service. The general goal of the emeritus pro bono practice rule is to encourage retired or retiring Iowa lawyers and persons licensed as lawyers in other states to provide volunteer legal services on behalf of legal aid organizations serving low income persons in Iowa.

The proposed Iowa emeritus pro bono practice rule would allow active or inactive Iowa lawyers, or lawyers admitted in another state or the District of Columbia, to request certification as an emeritus lawyer. An emeritus lawyer would relinquish any existing status as an active or inactive Iowa lawyer and be granted a limited license to provide pro bono legal services under the general supervision of an approved legal aid organization. An emeritus lawyer would be required to file annual client security and continuing legal education reports and fulfill normal continuing legal education requirements but would be exempt from the annual fee for support of the lawyer disciplinary system and from any assessment for the client security trust fund.

The supreme court seeks public comment on the proposed emeritus pro bone practice rule prior to taking further action on it. Copies of the proposed

rule can be found at www.iowacourts.gov/Supreme_Court/Orders/. In addition, copies are available at the office of the Clerk of the Supreme Court.

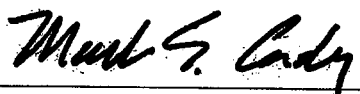
Any interested organization, agency, or person may submit written comments. Comments about a proposed rule must refer to the specific rule number (for example, Rule 31.19(3)) and the specific numbered line or lines to which the comments are directed. Comments sent by email must be emailed to **rules.comments@iowacourts.gov**, must state “**emeritus pro bono**” in the subject line of the email, and must be sent **as an attachment to the email in Microsoft Word format**. Instead of submission by email, comments may be delivered in person or mailed to the Clerk of the Supreme Court, 1111 East Court Avenue, Des Moines, Iowa, 50319.

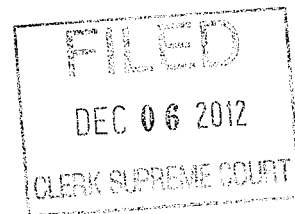
Any comments received may be posted on the Iowa Judicial Branch website.

The deadline for submitting comments is 4:30 p.m. on Monday, February 4, 2013.

Dated this 6th day of December, 2012.

The Supreme Court of Iowa

By 
Mark S. Cady, Chief Justice



1 (Proposed new rule)

2
3 **Rule 31.19 Certification and pro bono participation of emeritus attorneys.**

4
5 **Rule 31.19(1) Purpose.** The following rule establishes the emeritus
6 attorneys pro bono participation program.

7
8 **Rule 31.19(2) Definitions.**

9 (a) *Emeritus Attorney.* An "emeritus attorney" is any person who is admitted
10 to practice law in Iowa and is on inactive, active, or retired status at the time of
11 application, or who is or was admitted to practice law before the highest court
12 of any other state or territory of the United States or the District of Columbia,
13 and;

14 (1) does not have a pending disciplinary proceeding;

15 (2) has never been disbarred or had a license to practice law revoked in any
16 jurisdiction;

17 (3) agrees to abide by the Iowa Rules of Professional Conduct and submit to
18 the jurisdiction of the Iowa Supreme Court, the Iowa Supreme Court Attorney
19 Disciplinary Board, and the Iowa Supreme Court Grievance Commission for
20 disciplinary purposes;

21 (4) neither requests nor accepts compensation of any kind for the legal
22 services to be rendered under this chapter; and

23 (5) is certified under this rule.

24 (b) *Active.* For purposes of this rule, "active" describes lawyers with the
25 status of corporate, full-time, part-time, government, judge, or military service
26 for purposes of the client security commission.

27 (c) *Approved Legal Aid Organization.* For purposes of this rule, an "approved
28 legal aid organization" shall include a program sponsored by a bar association,
29 law school, or a not-for-profit legal aid organization, approved by the Iowa
30 Supreme Court, whose primary purpose is to provide legal representation to
31 low-income persons in Iowa. A legal aid organization seeking approval from the
32 court for the purposes of this rule shall file a petition with the Office of
33 Professional Regulation certifying that it is a not-for-profit organization and
34 reciting with specificity:

35 (1) the structure of the organization and whether it accepts funds from its
36 clients;

37 (2) the major sources of funds the organization uses;

38 (3) the criteria used to determine potential clients' eligibility for legal services
39 the organization performs;

40 (4) the types of legal and nonlegal services the organization performs;

41 (5) the names of all members of the Iowa Bar the organization employs or
42 who regularly perform legal work for the organization;

43 (6) the existence and extent of malpractice insurance that will cover the
44 emeritus attorney;

45 (7) the number of attorneys on the organization's board of directors; and

1 (8) the availability of in-house continuing legal education.

2
3 **Rule 31.19(3) Activities.**

4 (a) *Permissible Activities.* An emeritus attorney, in association with an
5 approved legal aid organization, may perform the following activities:

6 (1) The emeritus attorney may appear in any court or before any
7 administrative tribunal in this state on behalf of a client of an approved legal
8 aid organization.

9 (2) The emeritus attorney may prepare pleadings and other documents to be
10 filed in any court or before any administrative tribunal in this state in any
11 matter in which the emeritus attorney is involved. Such pleadings shall include
12 the attorney's status as emeritus attorney and the name of the approved legal
13 aid organization, except as permitted by Iowa Rule of Civil Procedure 1.423.

14 (3) The emeritus attorney may provide advice, screening, transactional and
15 other activities for clients of approved legal aid organizations.

16 (b) *Determination of Nature of Participation.* The presiding judge or hearing
17 officer may, in the judge's or officer's discretion, determine the extent of the
18 emeritus attorney's participation in any proceedings before the court.

19
20 **Rule 31.19(4) Supervision and limitations.**

21 (a) *Supervision by Attorney.* An emeritus attorney must perform all activities
22 authorized by this chapter under the general supervision of the approved legal
23 aid organization.

24 (b) *Representation of Status.* Attorneys permitted to perform services under
25 this chapter may only hold themselves out as emeritus attorneys.

26 (c) *Payment of Expenses and Award of Fees.* The prohibition against
27 compensation for the emeritus attorney contained in rule 31.19(2)(a)(4) shall
28 not prevent the approved legal aid organization from reimbursing the emeritus
29 attorney for actual expenses incurred while rendering services under this
30 chapter or from paying continuing legal education attendance fees on behalf of
31 the emeritus attorneys, nor shall it prevent the approved legal aid organization
32 from making such charges for its services as it may otherwise properly charge.
33 The approved legal aid organization shall be entitled to receive all court-
34 awarded attorneys' fees for any representation rendered by the emeritus
35 attorney.

36
37 **Rule 31.19(5) Certification.** Permission for an emeritus attorney to perform
38 services under this chapter shall become effective upon filing with and approval
39 by the Office of Professional Regulation of the Supreme Court of Iowa of:

40 (a) a certification from an approved legal aid organization stating that the
41 emeritus attorney is currently associated with that legal aid organization and
42 that all activities of the emeritus attorney will be under the general supervision
43 of the legal aid organization;

44 (b) a certificate from the highest court or agency in the state, territory, or
45 district in which the emeritus attorney previously has been licensed to practice

1 law, certifying that the emeritus attorney is in good standing, does not have a
2 pending disciplinary proceeding, and has never been disbarred or had the
3 license to practice law revoked; and

4 (c) a sworn statement from the emeritus attorney that the emeritus attorney:

5 (1) relinquishes status as an inactive, active, or retired lawyer and requests
6 placement in emeritus status for purposes of the client security commission
7 and commission on continuing legal education;

8 (2) understands and will abide by the provisions of the Iowa Rules of
9 Professional Conduct;

10 (3) submits to the jurisdiction of the Iowa Supreme Court, the Iowa Supreme
11 Court Attorney Disciplinary Board, and the Iowa Supreme Court Grievance
12 Commission for disciplinary purposes; and

13 (4) will neither request nor accept compensation of any kind for the legal
14 services authorized under this chapter.

15
16 **Rule 31.19(6) *Withdrawal of certification.***

17 (a) *Withdrawal of Permission to Perform Services.* Permission to perform
18 services under this chapter shall cease immediately upon the filing with the
19 office of professional regulation of a notice either:

20 (1) from the approved legal aid organization stating that the emeritus
21 attorney has ceased to be associated with the organization, which notice must
22 be filed within 30 days after such association has ceased; or

23 (2) from the Iowa Supreme Court, in its discretion, at any time, stating that
24 permission to perform services under this chapter has been revoked. A copy of
25 such notice shall be mailed by the office of professional regulation to the
26 emeritus attorney involved and to the approved legal aid organization.

27 (b) *Notice of Withdrawal.* If an emeritus attorney's certification is withdrawn,
28 for any reason, the approved legal aid organization shall immediately file a
29 notice of such action in the official file of each matter pending before any court
30 or tribunal in which the emeritus attorney was involved.

31
32 **Rule 31.19(7) *Discipline.*** In addition to any appropriate proceedings and
33 discipline that may be imposed upon the emeritus attorney by the Iowa
34 Supreme Court under the court's disciplinary rules, the Iowa Rules of
35 Professional Conduct, or the Code of Iowa, the Iowa Supreme Court may, at
36 any time, with or without cause, withdraw certification under this rule.

37
38 **Rule 31.19(8) *Fees and annual statements.***

39 (a) *Annual Report to Client Security Commission.* A lawyer certified under this
40 rule shall file the annual questionnaire required by Iowa Ct. R. 39.11 and the
41 annual statement required by Iowa Ct. R. 39.8(1), but shall be exempt from the
42 annual disciplinary fee and fund assessment provided in Iowa Ct. Rs. 39.5 and
43 39.6.

44 (b) *Annual Report to Commission on Continuing Legal Education.* A lawyer
45 certified under this rule shall fulfill the continuing legal education attendance,

1 reporting, and fee payment requirements set forth in Iowa Ct. Rs. 41.3 and
2 41.4. However, a lawyer shall not be required to comply with the continuing
3 legal education requirements set forth in Iowa Ct. R. 41.3 for the calendar year
4 in which the lawyer is first certified under this rule. The approved legal aid
5 organization may pay the continuing legal education reporting fee on behalf of
6 the emeritus attorney.